Before the
**FEDERAL COMMUNICATIONS COMMISSION**
WASHINGTON, D.C. 20554



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| In the Matter of: | ) | |
| | ) | |
| Replacement of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems | ) | WT Docket No. 96-18 |
| Implementation of Section 309(j) of the Communications Act -- Competitive Bidding | ) | PP Docket No. 93-253 |



To: The Commission

## COMMENTS OF A+ NETWORK ON INTERIM LICENSING PROPOSAL

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Date: March 1, 1996

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## SUMMARY

A+ Network is the licensee and operator of literally hundreds of private carrier paging ("PCP") sites throughout the United States. In particular, it has used just one shared PCP channel, the 152.480 MHZ frequency channel, to build a seamless nationwide paging operation by linking together small, affiliated local PCP operators from coast to coast. That network now serves over 800,000 paging units every day, in over 6,000 cities and towns. Through this ingenious and efficient use of shared PCP spectrum, A+ Network has grown to become one of the largest paging service providers in the country, while also providing its affiliates an inexpensive method of offering nationwide and regional service to their customers at very reasonable rates. This is precisely the type of creative and spectrum-efficient communications service that the FCC should be promoting.

Instead, the FCC's "freeze" on all paging applications has jeopardized this nationwide service. A+ Network must be able to obtain additional 152.480 licenses to preserve the integrity of this nationwide network in the event that an affiliate chooses to leave the network. The freeze would bar A+ Network from doing that, since the freeze order prohibits PCP licensees from obtaining licenses in previously unserved areas, even on shared frequencies, such as 152.480. This could cause serious and unacceptable "holes" in A+ Network's pervasive nationwide network, and threaten to cause prolonged interruptions in service to its hundreds of thousands of customers.

The same problem would occur to any PCP licensee that has built a local, regional or nationwide system through intercarrier or affiliate arrangements with other PCP licensees. With the freeze in place, if any FCC licensed member of an inter-carrier network leaves a network, the

remaining members are "frozen" from applying to the FCC to fill that gap. For its part, A+ Network is a publicly traded company, and would have to answer to thousands of shareholders, in addition to its adversely affected customers, if the FCC's freeze were to interfere with the continuous operation of this 24 hour nationwide network.

While the harm that the freeze is causing to A+ Network and its affiliates is apparent, there is no countervailing need to preserve shared-use PCP spectrum for potential auctions. There are only a small handful of high-power shared-use PCP frequencies available for licensing. Of these, most are licensed to at least one and typically multiple carriers in all the major markets. The obligation to protect these "grandfathered" licensees, while continuing to coordinate heavy paging traffic between commercial, medical, law and safety operators on these shared channels within these markets, makes it highly unlikely that anyone would bid for the right to use these shared channels in the limited areas of the United States where they are not already in service.

If the FCC determines that it will lift the freeze only for shared frequency services; this may generate inappropriate demand for these shared frequencies; since carriers will have no other place to go pending the freeze. Thus, in that case, the FCC should not accept applications for "new" stations on shard frequencies during the interim period; rather, it should allow only incumbent shared frequency operators to apply outside their licensed areas. To do otherwise would risk turning the shared PCP spectrum into a frequency "ghetto" during the interim licensing period.

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## COMMENTS OF A+ NETWORK ON INTERIM LICENSING PROPOSAL

A+ Network, Inc., through its attorneys, and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, respectfully submits these "Comments" in response to the Commission's "Interim Licensing Proposal" in the above-referenced Notice of Proposed Rulemaking ("Notice"). In particular, these comments are submitted in response to the FCC's "freeze" on all paging applications, and its adoption of "interim processing" rules. A+ Network submits that the freeze will immediately jeopardize the continued operation of shared-use PCP networks, such as A+ Network's nationwide 152.480 MHZ network. Consequently, A+ Network requests that the freeze be lifted.

### I. Statement of Interest.

A+ Network, a publicly owned and traded paging company formed through the merger of A+ Communications and Network USA, is uniquely qualified to comment on proposed changes

to the private carrier paging services, and the impact that the FCC's freeze will have on these services. A+ Network has accomplished with private carrier paging ("PCP") service, what no other paging company previously accomplished: it has successfully "networked" together hundreds of small, local PCP operators on a single, shared use PCP channel, to build a seamless nationwide paging operation.

**A. Creation of The Network**

Beginning in 1988, A+ Network (Network USA, at the time) began building a nationwide 152.480 MHZ paging network, by contacting small operators who held FCC licenses on the same frequency, and offering them affiliation. Where previously they could provide PCP service only as far as their local transmitters could send a radio signal, now an affiliate could offer their customers statewide, regional or nationwide service wherever any member of the A+ network was located. A+ Network invested millions of dollars in the design, construction and operation of this network. As a result of this considerable expenditure of time, money, and labor, A+ Network has rapidly grown to become one of the largest paging operators in the nation, and it is probably the largest PCP operator in the nation.

Today, the A+ Network provides service to over 800,000 paging units nationwide on a single, shared, 152.480 MHZ frequency channel. This 152.480 MHZ network consists of over 1,400 transmitter sites, providing service in over 6,000 cities and towns across the United States, including almost all of the 300 largest SMSAs in the country. As you can see from the attached map depicting the geographic scope of this network, it covers most of the Continental United States. It is no exaggeration to state that the FCC's freeze has jeopardized the integrity of this network, and could interfere with the provision of uninterrupted service to these hundreds of

thousands of subscribers.

**B. How the Network Operates**

A customer wishing to page an A+ Network or affiliate subscriber dials the A+ Network telephone number, which accesses A+ Network's automatic paging terminal in Pensacola, Florida. The customer is then asked for the subscriber's identification ("ID") number; when the terminal recognizes the number, the page is transmitted to a satellite, then beamed back to one or more A+ Network receive stations nationwide.

From that receive site, the page is sent out over one of many TNPP networks, comprised of A+ Network subsidiaries and affiliates who have "tied" their terminals together to create wider coverage for their paging systems. To promote spectrum efficiency, A+ Network offers its customers a variety of paging "zone" sizes; the page is transmitted only through the transmitters of the requested zone.

For any number of reasons, affiliates routinely join or leave the network. Those who leave the network may do so because they have sold their business, or their service needs no longer require nationwide network affiliation. When an affiliate leaves the network, A+ Network must immediately fill that "gap" in coverage; it typically does so by applying for its own 152.480 MHZ licenses, and installing appropriate transmitters to fill the void. It might also find a replacement affiliate in that service area; however, to avoid any interruptions of service in that region, A+ Network often finds it is safer to "build it yourself", and then look for affiliates later.

The FCC's freeze would obviously make it impossible to fill these coverage gaps, anytime an affiliate leaves the network. Since the freeze prohibits any applications to serve

previously unserved areas, A+ Network would not be able to do what should be considered eminently logical in these circumstances: apply for a license on this shared frequency, and install a transmitter, so that 800,000 paging units can continue to be paged virtually anywhere in the United States. In short, the freeze would inevitably lead to sizeable "holes" in this essentially seamless network; that makes absolutely no sense at all.

A+ Network has built its operation true to the goals of the FCC in creating PCP service: A+ Network and its affiliates provide tailored paging services to a wide variety of customers at extremely competitive prices. The network relies on the collective strength and harmony of many small affiliates, whose own businesses benefit from the increased coverage their affiliation with A+ Network provides.

A+ Network's and its affiliates' businesses rely upon timely and sensible frequency coordination and FCC licensing processes, and a regulatory environment that is fundamentally concerned with protecting shared-use operators from harmful interference and unnecessary regulatory burdens. The freeze has undermined this good faith reliance upon the FCC, to the detriment of hundreds of thousands of subscribers. The FCC's freeze on coordination and licensing of 152.480 stations will delay or deny network service providers from making daily, necessary modifications and additions to the network. Due to their substantial investment in PCP services and the 152.480 MHZ frequency in particular, A+ Network, its subscribers, affiliates and shareholders will all be particularly adversely affected if the FCC's freeze persists, and interferes with the growth and operation of this nationwide network.

## II. A Freeze is Unnecessary on Shared PCP Frequencies.

Presumably, the FCC had two things in mind when it imposed its freeze on all paging applications: (1) deterrence of frequency "speculators" pending consideration of paging auction rules; and, (2) preservation of unused or unlicensed paging spectrum until auctions commence. Neither concern is warranted with respect to shared use PCP spectrum.

### A. Speculators Should be Dealt with Directly.

"Speculative" filings are not a problem for legitimate shared use licensees. Speculators do not build their licensed stations; and, since anyone can apply for a license on a shared frequency, a speculative filing would not "block" a legitimate operator from applying for and using that shared frequency. In other words, legitimate shared-use PCP operators simply ignore speculative filings; they pose no obstacle to the use and growth of shared-use PCP spectrum.

If the FCC is simply tired of processing speculative applications on shared PCP frequencies, there are certainly more direct ways to stop this practice, rather than by blocking legitimate operators from obtaining necessary licenses. For instance, the FCC could require new applicants that are not already operating a paging system, to meet some showing of financial ability to construct a station, or to post a construction bond, as a means of proving their good faith intent to operate a paging station.

Another alternative would be for the FCC to impose an additional processing fee or "license turn-in" fee on speculators who fail to construct a licensed station; this would be a legitimate charge or penalty assessed on anyone who squanders scarce FCC and spectrum resources. If the public is informed of these potential penalties in advance, or upon a grant of a license, it would be an effective deterrent to speculative filings, or cause many speculators to

voluntarily turn in their licenses prior to the construction deadlines. There are certainly many other ways to deter speculators, without harming the legitimate licensing needs of PCP operators. A+ Network and the paging industry would be more than willing to share these ideas with the FCC, at the agency's behest.

**B. No Legitimate Paging Operator will bid for Shared Spectrum.**

The FCC needs to pay special attention to A+ Network's comments with regard to shared use spectrum, because there is simply no other company in the nation more familiar with shared use paging operations than A+ Network. This company has the most extensive shared use network in the entire United States. It has been dealing with shared use interference problems, affiliate agreements, intercarrier arrangements, speculative filings, misinformed local PUCs, telephone interconnect problems, and regulatory changes for close to an decade. Despite all these problems and hurdles, the network works exceptionally well, entirely due to the efforts of A+ Network and its affiliates.

It is precisely due to A+ Network's experience with the daunting difficulties of creating a shared frequency network, that it can categorically state that it is highly unlikely that anyone at all will bid at auction for any of these shared paging frequencies. Anyone who understands the enormity of the contractual, frequency coordination, and engineering tasks involved in shared use spectrum, particularly on an MTA, regional, or nationwide basis, would realize that no one other than A+ Network, the largest user of this frequency, would be interested in bidding at auction for the right to operate on these extremely busy, narrow, shared use frequencies (indeed, bidders are unlikely to find any investors or lenders willing to support such a venture). They would be bidding only for the right to operate in the most difficult radio frequency environment

imaginable, for the right to provide service to the least populated parts of the country, since these frequencies are already heavily used everywhere else.

Perhaps ten years ago, a potential bidder's calculations for shared use frequencies would have been different; but today, these channels are heavily trafficked with commercial customers (such as A+ Network's), and, with private, interconnected licensees, such as hospitals, sheriffs, and ambulance services. The very idea that someone would bid at auction for the right to serve "tumbleweed" sections of the country on shared frequencies, while also having to protect all of these incumbent licensees from harmful interference, is too farfetched to warrant serious agency consideration or allocation of agency resources.

The problems for anyone interested in bidding for shared-use frequencies are manifest and manifold. For instance, only a handful of the high powered, shared-use PCP channels are contiguous with another one. Thus, shared use bidders would be limited, as a practical and technical matter, to bidding only on stand-alone narrowband channels, in remote, lightly populated sections of the country. If the "successful" bidder attempts to create any sort of wide-area network, they will find that they must coordinate their operations with multiple incumbent licensees within each major market. Most of these incumbent shared-frequency licensees operate pursuant to mutually-negotiated time-sharing arrangements; some of these time-sharing arrangements were imposed upon the licensees by the FCC's former Private Radio Bureau. A "winning" bidder will have to work around these hard-fought sharing arrangements, which are not likely to be amended or terminated.

Also, it is an engineering certainty that the overall efficiency of a shared-use channel diminishes with each additional licensee on that channel at a rate greater than the number of

additional paging units activated by the new licensee. The reasons may not be obvious: (1) each licensee is obligated to transmit their FCC call sign; this takes up precious airtime even if a licensee is generating only a small amount of pager traffic; (2) each licensee's paging terminal operates with paging codes that are not identical to those of co-channel licensees; the "coding" of paging signals takes up precious airtime on a shared frequency (that is in addition to the actual airtime used up by the paging signal itself); (3) different licensees market different types of paging service; some of these paging formats, such as tone and voice or alphanumeric, use up far more available airtime than others, such as digital/ numeric; (4) shared frequency monitoring methods are not uniformly efficient or effective; even the most efficient automatic monitoring requires that the shared channel be "quiet" for a moment, before that shared-channel licensee can begin transmitting its "batch" of pages; this uses up available airtime; and (5) shared use licensees have not built their transmitters at the same locations as their shared use co-licensees. There are significant differences in network design between co-channel systems; these differences in location and design cause many difficult interference problems; the engineering solutions to these co-licensee problems almost inevitably reduce the efficiency of the shared-use channel.

This is truly just a small sample of the problems that potential bidders would face on shared PCP frequencies. Conversely, incumbent operators and their subscribers, many of whom use these shared-use frequencies for health and safety services, are certain to be harmed by the addition of any MTA "overlay" licensee on top of these intricately tuned, shared use systems. A+ Network knows from experience that interference, even at only the "edges" of its paging service areas, can be fatal to the timely delivery of wide-area paging signals. Unlike telephone

voice transmissions where a little interference does not necessarily terminate a call, interference on a shared-use paging system can essentially "trash" thousands of paging transmissions.

The entry of additional licensees onto these channels will almost certainly degrade the quality of service that is currently provided by incumbent licensees, such as A+ Network and its affiliates, for no obvious public interest goals. The FCC, after gearing up all its auction resources, and after freezing out legitimate commercial, health, safety, and law enforcement users from continued development of these heavily trafficked narrowband channels, will almost surely realize no more than nominal proceeds from such a shared-frequency auction.

It is certainly possible that bidding "pools" or partnerships of misinformed and misguided speculators, will be formed to bid for shared-frequency spectrum; after all, with a freeze in place, the application mills will have no other way of making money. But, it cannot be imagined that the FCC would want to create an auction that will benefit only application mills, threaten to destroy millions of dollars invested by licensees in these shared-use frequencies, and seriously degrade the quality of paging service provided to millions of users nationwide.

**C. <u>Partial Lifting of the Freeze Could pose Problems for Shared Frequencies</u>**

Now that it has unexpectedly frozen all paging applications, the FCC will have to be careful about the manner in which it "lifts" or modifies its freeze. If the FCC determines that it will lift the freeze only for shared frequency services; while leaving the freeze in place for 929/931 paging frequencies, this will generate inappropriate demand for these shared frequencies; paging carriers will have no other place to go but to the shared frequencies until the freeze is lifted.

Thus, in case the FCC decides to lift the freeze only with respect to shared frequency

paging, there must be limits on that decision: the FCC should not accept applications for "new" stations on shared frequencies during the interim period; rather, it should allow only incumbent shared frequency licensees to apply outside their licensed areas during the interim period. To do otherwise would risk turning the shared PCP spectrum into an overcrowded frequency "ghetto" by the time the FCC adopts final rules in this proceeding.

## III. The FCC Should Focus on Improving Shared Frequency Operations.

In the next round of comments in this rulemaking proceeding, A+ Network will address the issues that are of immediate concern to the shared-use paging industry: interference avoidance, and creation of channel exclusivity. The FCC has appropriately raised these issues in this proceeding; it is vital that these issues be resolved in a manner that will protect shared-frequency investments, while enabling these obviously successful operators to grow and serve the public's interests.

In the meantime, the freeze does nothing but provide false hope to speculators who believe that a shared-use licensee has some inherent, assignable value. The FCC should realize that these frequencies are worthwhile only because of the resourceful efforts and financial investments of thousands of licensees who use them every day. The freeze harms these operators and their customers; it should be lifted without further delay.

## CONCLUSION

FOR ALL THESE REASONS, A+ Network respectfully requests the Commission to lift the freeze on the processing of shared-frequency PCP applications.

Respectfully submitted,

A+ Network

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Date: March 1, 1996

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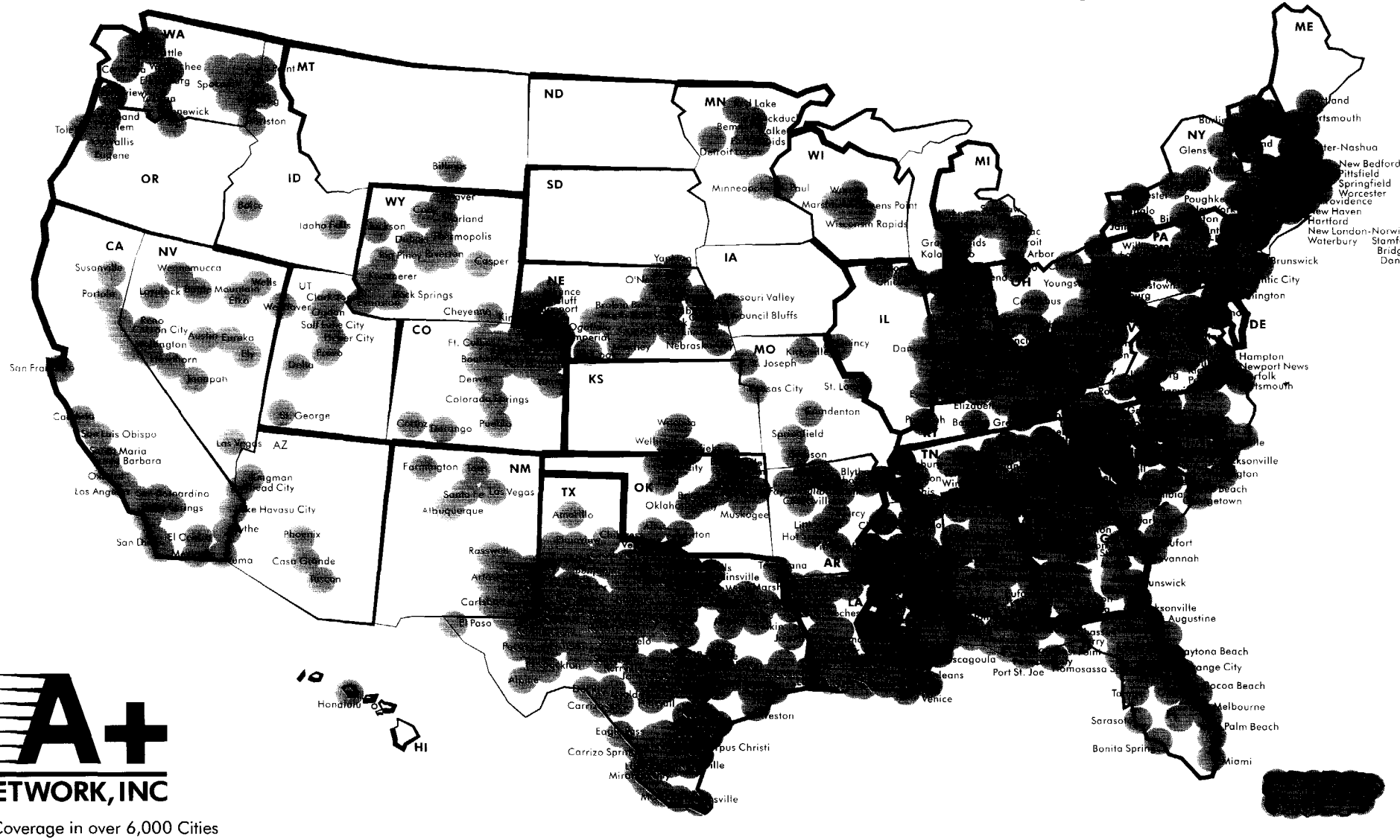
A + NETWORK

# Nationwide Coverage

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- Selection of Pager Models
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* This map is a representation of 152.480 Nationwide Coverage.
revised 12/95

## CERTIFICATE OF SERVICE

I, Regina Wingfield, a legal secretary in the law firm of Joyce & Jacobs, Attys. at Law, LLP, do hereby certify that on this 1st day of March, 1996, copies of the foregoing Comments of A+ Network were mailed, postage prepaid, to the following:

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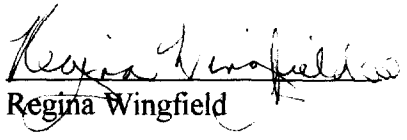

Regina Wingfield

* Hand Delivery